



**IN THE COURT OF SESSIONS AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI**

**ANTICIPATORY BAIL APPLICATION NO.1647 OF 2021
(C. R. No.928/2021 of Kandivali Police Station)**

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| 1. Tribhuvandas Mauvji Rughani, |] | |
| 2. Rasmin Tribhuvandas Rughani, |] | |
| 3. Pinakin Tribhuvandas Rughani, |] | |
| All are Bombay, Adult, Indian Inhabitant, |] | |
| and are residing at Flat No.1502, Hansa |] | |
| Heritage, Mathuradas Road, |] | |
| Kandivali (W), Mumbai 400 067. |] | ...Applicants |

Versus

State of Maharashtra,	]	
(Through Kandivali Police Station)	]	...Respondent

Ld. Adv. Shri Ashok M. Sarogi for applicants.
APP Usha Jadhav for State.

**CORAM : SHRI L.S. CHAVAN,
Additional Sessions Judge,
Court Room No.10.**

Date : 1st December, 2021

ORAL ORDER

The present application is filed by the applicants under section 438 of the Code of Criminal Procedure 1973 for granting Anticipatory

Bail in connection with Crime No.928 of 2021, registered with Kandivali Police Station, for the offences punishable under Sections 336, 338, 304(2) r/w. 34 of the Indian Penal Code and Sections 3(1), 3(3), 3(4) of Maharashtra Fire Prevention and Life Safety Act 2006.

2. The factual matrix of prosecution case is that, on 06.11.2021, the complainant was on duty at Kandivali Police Station. He received a call at around 12.30 midnight that the building known as Hansa Heritage, Mathuradas Road, Kandivali (W), Mumbai had caught fire on its 14th floor and immediate assistance of the police is warranted. After receipt of the said information, the complainant along with staff immediately reached on the spot and saw that 14th floor has caught huge fire and smoke. The fire flames were coming out from the 14th floor of the building. At that time, it was noticed that the fire has spread till flat No.1501 of the building. The duty officers have reached to 14th floor by staircase. The electricity of the building was disconnected. The staff of fire department have tried to extinguish the fire by pouring/sprinkling water on fire. It is noticed that the alternate pump installed at the society was not functioning as well as alternate electricity was not available. The parking space for fire brigade vehicle was not available in the society. After long time, the fire brigade succeeded to control the fire. Thereafter, the firemen as well as police officers have entered into the flat No.1401. Wherein it was seen that the entire articles kept in the hall and kitchen were totally burnt in the fire and two persons with 100% burnt were found and removed them from the flat and sent to Shatabdi Hospital for medical treatment. From the bedroom of the said flat, Deepak H. Parekh, Avni D. Parekh, Mulraj Bhagwan Kothi, Rashmi Mulraj Kothi and Rupam Ashwin Mandvia

were rescued. There was no person found in flat No.1501 as they have gone out for holidays. The two persons with 100% burn injury i.e. Ranjanaben Hasmukh Parekh and Neeta Deepak Parekh, who were sent to hospital, were declared dead by the Doctor of Shatabdi Hospital. Thereafter, necessary entry in station diary about their death were made and panchanama was also prepared. Thereafter, the statement of flat owner of Flat No.1401 Mr. Deepak H. Parekh was recorded in which he informed that all family members and his close relatives were gathered in his flat to celebrate Diwali. At around 20.15 hours, door bell of the flat was continuously ringing. When he opened the door, he found that safety door of the flat has caught fire. At that time, his family friend Mr. Ashok Kantilal Mandavia has pushed the door and has jumped from the fire and went out. He had tried to extinguish the fire by spreading water, but he could not control the fire. However, the fire and smoke was increasing. Some persons to safeguard their life went into bed room. However, the lady senior citizens could not move themselves out as the fire and smoke was spread deeply. In postmortem report, the cause of death was disclosed due to 100% extensive burn. Further it is alleged that, after inquiry from the residents, it came to know that the construction of the building was completed in the year 2014. The building has 15th floors, out of which, first three floors are for parking the vehicles and 4th floor to 14th floors are residential flats. The 8th floor is refugee area. There are total 22 flats in the building and each floor has two flats. The said building was constructed by the applicants. At the time of handing over the possession, after procuring the Occupation Certificate of the building, fire NOC was obtained for the building. In the said fire NOC, there was instruction to install alternate Sub Electric Station Connection, in case electricity of building

is disconnected and it was also directed to install standby pump. However, the said pump was not made available to the fire fighter at the time of incident. The said fire fighter instrument was not repaired from time to time as required under the rules and as such, was not functioning. As per form 'B', it is mandatory to the society to communicate the fire department in each six months that the fire fighting instruments are functioning properly. However, the said information was not communicated to the fire department by the society and its office bearers. Further it is alleged that the applicants have proposed to form society after NOC of fire department. It is revealed that the society has taken possession of the building without verifying the aforesaid fact and the compliance as per fire NOC conditions. Thereafter, in 2018, new committee was appointed after election, wherein new persons were given charge. It is alleged that, in sanctioned plan, gate No.3 was sanctioned for fire vehicle entry and exist, which was not found in the society which created hurdle in rescue plan and extinguishing the fire resulted in death. It is alleged by the prosecution that, they have made correspondence with the fire department to know the cause of said fire and after report of the fire department, it is revealed that the builder has given an undertaking that they shall install the alternate electric supply from D.G. Set as well as separate electric Sub Station within a period of 30 days and shall provide standby pump within 90 days. But the fire department has given probable cause of the fire as defective electric circuit. The fire department has found following irregularities in the building:

- 1) Inadequacies were noticed with respect existing fixed fire-fighting system in the said premises, 2) Alternate source of electric supply from separate electric sub-station as well as DG set standby

pump were not found at incident place, 3) East side gate was not provided as per earlier approved plan and 4) Additional amendment/unauthorised construction work etc. in the building shall be verified by the concerned department of the MCGM. It is further contention that the society has accepted the possession without compliance of the norms of fire NOC. The gate No.3 which was made in sanctioned plan so that the fire engine can move through the building was not constructed by the builder and promoter and rock scrap was scattered and stored in building premises which was caused delay in rescue operation, which was lead to death of two innocent persons. Therefore, the complainant being police officer lodged the report to the Kandivali Police Station. On the report of complainant, Crime No.928/2021 came to be registered against the applicants/accused for the offence punishable under Sections 336, 338, 304(2) r/w. 34 of the Indian Penal Code and Sections 3(1), 3(3), 3(4) of Maharashtra Fire Prevention and Life Safety Act 2006.

3. Ld. Advocate for the applicants argued that the applicants have constructed the Hansa Heritage Building and handed over the possession of the building to the society in the year 2014. They have been falsely implicated in the above said crime with intend to destroy their reputation in the society. It is alleged that the family of Deepak Parekh had put some curtains on the window and during diwali had lightened some candles close to the said curtain and because of their negligence, fire get caught to the said curtains and spread over. The said incident was unfortunate and beyond the control of human being. The applicants being builders/developers have followed all the rules and regulations. They are not responsible for the alleged incident. The

applicant No.1 had retained a flat at 15th floor of the said building for his residence and having office premises at 2nd floor. He has no intention to cause death of anybody or likely to cause bodily injury. The applicants have been falsely implicated in the alleged offence by the prosecution. Nothing is to be recovered or discovered from them. Their custodial interrogation is unwarranted. Hence, requested to enlarge them on pre-arrest bail.

4. Per Contra, the Ld. APP for the respondent strongly opposed for granting anticipatory bail contending that two innocent ladies died in fire incident took place at Hansa Heritage Building. The applicants/accused being responsible persons, failed to comply the requisition mentioned in the NOC of fire department. As the offence is serious in nature, the investigation is at initial stage. If the applicants are released on Anticipatory Bail, then they will pressurise the complainant and witnesses. Hence, requested for rejecting the application.

5. In view of the aforesaid discussion, it appears that Hansa Heritage Building is constructed by the applicants. They by obtaining occupation certificate from the BMC handed over the possession of building to the society. Needless to state that the issuance of Occupation Certificate is the bounden duty of the officers of the MCGM . Whether they issued the Occupation Certificate of the Building after verifying all the formalities and plan or not is the matter of investigation. In the present case, it is seen that full Occupation Certificate has been issued by the officers of the MCGM on 15.09.2014. Thereafter, the said building was handed over by the applicants to the

society. Since 2015, the society is conducting all the correspondence in respect of the building. It is also seen that as per report of fire department, the alleged incident took place due to defective electric equipments. But, who is responsible for the alleged incident is also a matter of investigation and trial. The entire case is based upon the documentary evidence, for which the custodial interrogation of the applicants is not required. Secondly, it is seen that the allegations against the applicants is that, they have failed to comply the requisition made by the Fire Department. Considering the nature of allegations against the applicants, nothing is to be recovered or discovered from them. Their custodial interrogation is unwarranted. They are ready to co-operate the investigating officer. Therefore, it would be proper to enlarge them on pre-arrest bail. The apprehension of the prosecution is that, if the applicants are released on pre-arrest bail, then they will pressurise the complainant and witnesses and flee from justice. But, the said care can be taken by imposing appropriate conditions. Hence, following order.

ORDER

1. Anticipatory Bail Application No.1647 of 2021 is hereby allowed.
2. In the event of arrest of the applicants, namely, 1) Tribhuvandas Mauvji Rughani, 2) Rasmin Tribhuvandas Rughani and 3) Pinakin Tribhuvandas Rughani be released on bail on executing P.R. Bond of Rs.50,000/- (Rupees Fifty Thousand Only) each, with one or more surety/sureties of like sum in connection with Crime No.928/2021, registered with Kandivali Police Station for the offences punishable under Sections 336, 338, 304(2) r/w. 34 of the Indian Penal Code and Sections 3(1), 3(3), 3(4) of Maharashtra Fire Prevention and Life Safety Act 2006, on following conditions :

- i) They shall attend the Kandivali Police Station on every Sunday between 10.00 am to 01.00 pm till filing of Charge-sheet.
- ii) They shall not pressurise the complainant and witnesses.
- iii) They shall not leave India without prior permission of the Court.
- iv) They shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade them from disclosing such a fact to the Court or to any police officer.
- v) They are directed to furnish their local & native addresses and their contact numbers to Kandivali Police Station.
- vi) Inform to the Kandivali Police Station.

3. Anticipatory Bail Application No.1647 of 2021 stands disposed of accordingly.

(L. S. CHAVAN)

Dt. 01/12/2021

Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai

Dictated on : 01/12/2021
Transcribed by steno on : 01/12/2021
Checked & Signed by HHJ on : 01/12/2021

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.” UPLOAD DATE AND TIME 07.12.2021 AT 04.00 NAME OF STENOGRAPHER PRASAD S. TARE	
Name of Judge (with Court room no.)	HHJ Shri L.S. Chavan, City Civil & Sessions Court, Borivali Div., Dindoshi. (C.R.No.10)
Date of Pronouncement of JUDGEMENT/ORDER	01/12/2021
JUDGEMENT/ORDER signed by P.O. on	01/12/2021
JUDGEMENT/ORDER uploaded on	07/12/2021